

★ MAR 31 2015 ★

LONG ISLAND OFFICE

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
JOHN H. WHITE,

Petitioner,

-against-

ORDER
10-CV-5163 (SJF)

DAVID ROCK, Superintendent,

Respondent.
-----X

FEUERSTEIN, District Judge.

Before the Court is petitioner's motion seeking trial transcripts pursuant to 28 U.S.C. § 2250.¹ For the reasons that follow, petitioner's motion is denied as moot.

On November 5, 2010, petitioner filed a petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, which was denied by Opinion and Order dated April 22, 2013 (DE 101); final judgment was entered against petitioner on April 25, 2013 and the case was closed. On May 10, 2013, petitioner filed a motion to set aside the judgment pursuant to Federal Rule of Civil Procedure 60(b) (DE 103), and on May 16, 2013, appealed the judgment to the Second Circuit Court of Appeals. DE 104. By order dated March 27, 2014, petitioner's 60(b) motion was denied (DE 124), which he also appealed (DE 125) and on April 9, 2014, petitioner moved for production of his state court trial transcripts (DE 126).

On March 5, 2015, the Second Circuit issued a mandate (DE 129) denying petitioner's motion to, *inter alia*, compel the production of the state court transcripts, holding that petitioner

¹ Title 28 U.S.C. § 2250 provides: "If on any application for a writ of habeas corpus an order has been made permitting the petitioner to prosecute the application in forma pauperis, the clerk of any court of the United States shall furnish to the petitioner without cost certified copies of such documents or parts of the record on file in his office as may be required by order of the judge before whom the application is pending."

had not made a substantial showing of the denial of a constitutional right. Accordingly, petitioner's request for the transcripts is **DENIED** as moot.

A certificate of appealability will issue only if the applicant has made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). For the reasons stated, petitioner has not demonstrated the denial of a constitutional right and a certificate of appealability shall not issue.

SO ORDERED.

Dated: March 31, 2015
Central Islip, New York

s/ Sandra J. Feuerstein

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Sandra J. Feuerstein, U.S.D.J.